



February 25, 2005

## SENATE BILL No. 268

DIGEST OF SB 268 (Updated February 23, 2005 2:04 pm - DI 104)

**Citations Affected:** IC 16-18; IC 16-21; IC 16-34.5; IC 25-22.5; IC 35-46.

**Synopsis:** Cloning. Declares that human cloning is against public policy. Prohibits the state, a state educational institution, or a political subdivision of the state from using resources to knowingly participate in human cloning activities. Requires the state department of health to revoke the license of a hospital that knowingly allows human cloning activities. Requires the medical licensing board to revoke the license of a physician who knowingly participates in human cloning. Defines adult stem cell and fetal stem cell and states that these types of stem cell research are not included in the definition of cloning. Makes: (1) the unlawful participation in; (2) the implantation of or the attempt to implant the product of; and (3) the shipment or receipt of the product of; human cloning a Class D felony. Makes the purchase or sale of a human ovum, zygote, embryo, or fetus a Class C felony.

**Effective:** Upon passage; July 1, 2005.

**Miller, Clark, Drozda, Craycraft,  
Mrvan**

January 6, 2005, read first time and referred to Committee on Health and Provider Services.  
February 24, 2005, amended, reported favorably — Do Pass.

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February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 268

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-5.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]: **Sec. 5.5. "Adult stem cell" means an undifferentiated cell**  
4 **that:**

- 5 (1) **is found in a differentiated tissue;**  
6 (2) **is renewable; and**  
7 (3) **yields specialized cell types with certain limitations of the**  
8 **tissue from which it originated.**

9 SECTION 2. IC 16-18-2-56.5 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: **Sec. 56.5. (a) "Cloning" means the**  
12 **use of asexual reproduction to create or grow a human embryo**  
13 **from a single cell or cells of a genetically identical human.**

14 (b) **The term does not include:**

- 15 (1) **a treatment or procedure to enhance human reproductive**  
16 **capability through the manipulation of human oocytes or**  
17 **embryos, including the following:**

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- (A) In vitro fertilization.
- (B) Gamete intrafallopian transfer.
- (C) Zygote intrafallopian transfer; or
- (2) the following types of stem cell research:
  - (A) Adult stem cell.
  - (B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells.
  - (C) Embryonic stem cells from lines that are permissible for use under federal law in effect on January 1, 2005.

SECTION 3. IC 16-18-2-128.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 128.5. (a) "Fetal stem cell" means any of the following types of stem cells taken from a fetus that was either miscarried or stillborn:**

- (1) Placenta.
- (2) Umbilical cord.
- (3) Amniotic fluid.

(b) The term does not include any cells that are taken as the result of an abortion unless the cells are permissible for use under federal law in effect on January 1, 2005.

SECTION 4. IC 16-18-2-183.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 183.5. "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.**

SECTION 5. IC 16-21-3-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. Notwithstanding section 1 of this chapter, the state department shall revoke the license of a hospital licensed under this article if, after appropriate notice and an opportunity for a hearing, the state health commissioner proves by a preponderance of the evidence that the hospital:**

- (1) knowingly allows the hospital's facilities to be used for cloning or attempted cloning; or
- (2) knowingly allows the hospital's employees, in the course of the employee's employment, to participate in cloning or attempted cloning.

SECTION 6. IC 16-34.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **ARTICLE 34.5. CLONING**

##### **Chapter 1. Public Policy Against Human Cloning**

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1        **Sec. 1. The general assembly declares that human cloning is**  
 2 **against public policy.**

3        **Sec. 2. The state, a state educational institution (as defined in**  
 4 **IC 20-12-0.5-1), or a political subdivision of the state may not use**  
 5 **public funds, facilities, or employees to knowingly participate in**  
 6 **cloning or attempted cloning.**

7        **SECTION 7. IC 25-22.5-8-5 IS ADDED TO THE INDIANA CODE**  
 8 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 9 **UPON PASSAGE]: Sec. 5. (a) As used in this section, "cloning" has**  
 10 **the meaning set forth in IC 16-18-2-56.5.**

11        **(b) Notwithstanding IC 25-1-9, the board shall revoke the**  
 12 **license of a physician if, after appropriate notice and an**  
 13 **opportunity for a hearing, the attorney general proves by a**  
 14 **preponderance of the evidence that the physician knowingly**  
 15 **participated in cloning or attempted cloning.**

16        **SECTION 8. IC 35-46-5-2 IS ADDED TO THE INDIANA CODE**  
 17 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 18 **UPON PASSAGE]: Sec. 2. (a) This section does not apply to in vitro**  
 19 **fertilization.**

20        **(b) As used in this section, "cloning" has the meaning set forth**  
 21 **in IC 16-18-2-56.5.**

22        **(c) A person who knowingly or intentionally:**

23            **(1) participates in cloning;**

24            **(2) implants or attempts to implant a cloned human embryo**  
 25 **into a uterine environment to initiate a pregnancy; or**

26            **(3) ships or receives a cloned human embryo;**

27 **commits unlawful participation in human cloning, a Class D felony.**

28        **SECTION 9. IC 35-46-5-3 IS ADDED TO THE INDIANA CODE**  
 29 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 30 **UPON PASSAGE]: Sec. 3. (a) A person who knowingly or**  
 31 **intentionally purchases or sells a human ovum, zygote, embryo, or**  
 32 **fetus commits unlawful transfer of a human organism, a Class C**  
 33 **felony.**

34        **(b) This section does not apply to the following:**

35            **(1) The transfer or receipt of hospital and medical expenses**  
 36 **concerning a treatment or procedure to enhance human**  
 37 **reproductive capability through the manipulation of human**  
 38 **oocytes or embryos, including the following:**

39                    **(A) In vitro fertilization.**

40                    **(B) Gamete intrafallopian transfer.**

41                    **(C) Zygote intrafallopian transfer.**

42            **(2) The following types of stem cell research:**

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- 1                   **(A) Adult stem cell.**
- 2                   **(B) Fetal stem cell, as long as the biological parent has**
- 3                   **given written consent for the use of the fetal stem cells.**
- 4           **SECTION 10. An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Clark be added as second author and Senator Drozda be added as coauthor of Senate Bill 268.

MILLER

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SENATE MOTION

Madam President: I move that Senators Craycraft and Mrvan be added as coauthors of Senate Bill 268.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 268, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. "Adult stem cell" means an undifferentiated cell that:**

- (1) is found in a differentiated tissue;**
- (2) is renewable; and**
- (3) yields specialized cell types with certain limitations of the tissue from which it originated."**

Page 1, line 6, delete "include" and insert **"include:**

**(1)".**

Page 1, line 9, delete "(1)", begin a new line double block indented and insert:

**"(A)".**

Page 1, line 10, delete "(2)", begin a new line double block indented and insert:

**"(B)".**

Page 1, line 11, delete "(3)", begin a new line double block indented and insert:

**"(C)".**

Page 1, line 11, delete "transfer." and insert **"transfer; or**

**(2) the following types of stem cell research:**

**(A) Adult stem cell.**

**(B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells.**

**(C) Embryonic stem cells from lines that are permissible for use under federal law in effect on January 1, 2005. "**

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-128.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 128.5. (a) "Fetal stem cell" means any of the following types of stem cells taken from a fetus that was either miscarried or stillborn:**

- (1) Placenta.**
- (2) Umbilical cord.**

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**(3) Amniotic fluid.**

**(b) The term does not include any cells that are taken as the result of an abortion unless the cells are permissible for use under federal law in effect on January 1, 2005."**

Page 2, line 40, delete "the product of cloning" and insert "**a cloned human embryo**".

Page 2, line 42, delete "the product of cloning;" and insert "**a cloned human embryo;**".

Page 3, line 4, after "Sec. 3." insert "**(a)**".

Page 3, between lines 6 and 7, begin a new paragraph and insert:

**"(b) This section does not apply to the following:**

**(1) The transfer or receipt of hospital and medical expenses concerning a treatment or procedure to enhance human reproductive capability through the manipulation of human oocytes or embryos, including the following:**

**(A) In vitro fertilization.**

**(B) Gamete intrafallopian transfer.**

**(C) Zygote intrafallopian transfer.**

**(2) The following types of stem cell research:**

**(A) Adult stem cell.**

**(B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 268 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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